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OFFICE OF PETITIONS

In re Application of	:	
Van Hook et al.	:	
Application No. 09/223,046	:	DECISION REFUSING STATUS
Filed: December 30, 1998	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 0056.10US	:	
Title: METHOD FOR PROVIDING EXTENDED	:	
PRECISION IN SIMD VECTOR ARITHMETIC	:	
OPERATIONS	:	

This is in response to the petition filed December 30, 2003, under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on December 30, 1998, without an executed oath or declaration. Accordingly, on January 25, 1999, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of March 25, 1999. Applicant responded on March 12, 1999. On March 31, 1999 the Office mailed a Notice of Incomplete reply, indicating the signatures of the 2nd, 3rd, 4th and 5th inventors were missing. A reply was received on May 3, 1999.

It is noted that petitioner contends that 1.47 status was granted in the parent application (08/947,648). However petitioner is unable to obtain a copy of the decision granting 47 status. A review of Office records shows that it does not appear that 47 status was ever granted in the parent application. Accordingly, petitioner must obtain 47 status for the above -identified application.

It should also be noted a petition under 37 CFR 1.47(b) is only appropriate when all of the inventors do not sign the declaration. Under 37 CFR 1.47(b) it may be appropriate for an attorney of record to execute a declaration on behalf of an assignee. Where at least one inventor executes a declaration, a petition under 37 CFR 1.47(a) is appropriate. Under 37 CFR 1.47(a), an oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated. The declaration was executed by an improper party (the former attorney). However, the record does contain a declaration that does not contain the signature of James P. Hao on behalf of inventor Van Hook. Consequently, a new declaration is not required. The declaration containing James P. Hao's signature should not be used in any future filings.

A grantable petition under 37 CFR. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (1).

As to item (1), rule 47 applicant has failed to show that inventor Timothy Van Hook refused to execute the application papers after having been presented with a copy of the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d).

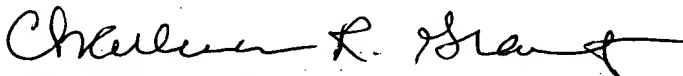
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306

By delivery service: U.S. Patent and Trademark Office
(FedEx, UPS, DHL, etc.) Customer Service Window,
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.



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